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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,086	08/22/2003	Dwayne Parkinson	5053.001US1	1752

7590 05/02/2006
Lemaire Patent Law Firm, P.L.L.C.
P.O. Box 11358
St. Paul, MN 55111

EXAMINER

PANNALA, SATHYANARAYA R

ART UNIT	PAPER NUMBER
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2164

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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Parkinson et al.

5053.001 US1

EXAMINER

Sathyanarayan Pannala

ART UNIT

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04272006

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Commissioner for Patents

In response to the Office Action mailed on 3/8/2005, Applicant submitted on 6/10/2005 newly added claims 23-54 and cancelled original claims 1-22. Newly added claims 23-54 are directed to an invention that is independent or distinct from with the invention originally claimed for the following reasons: The scope of the new added claims 23-54 has been changed in comparison to original claims 1-22. So, a separate review and search is needed for claims and it is therefore a burden to the Examiner. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 23-54 are withdrawn from consideration as being directed to a nonelected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

On 8/30/2005 Examiner mailed a Miscellaneous Office Action, informing the same as said above paragraph and setting a time period of 30 days for proper response. Applicant's response filed on 10/3/2005 with a reason stating as "the Applicant no longer wished to pursue the originally filed claims, but rather preferred the clearer and more precise language of the new claims." However, Applicant's response is in non-compliance to the Miscellaneous Office Action, because original claims were cancelled and new claims were added.

Examiner is withdrawing the Restriction/Election requirement because Applicant did not respond properly to the Miscellaneous Office Action. Applicant's Election and Amendment filed on 1/26/2006 stating that the Election of Group I and amending claims as well as adding new claims is moot in light of this correction.

Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.


Sathyanarayan Pannala
Patent Examiner